

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-6, 8, 9, 11-15 are currently pending. Claims 7 and 10 are canceled by this reply, without prejudice or disclaimer. Claims 1, 9, and 11 are independent. The remaining claims depend, directly or indirectly, from claims 1 and 11.

Examiner Interview

Applicant thanks the Examiner for courtesies extended during the Examiner Interview conducted on May 19, 2009. Although no agreement was reached during the interview, Applicant and the Examiner were able to discuss an overview of the novel aspects of the claimed invention.

Claim Amendments

Independent claims 1, 9, and 11 are amended for purposes of clarification. No new matter is added by way of these amendments as support may be found, for example, at least in the original claims, in paragraphs [0064] and [0076], and in Figures 6-7 of the publication of the present application.

Rejection(s) under 35 U.S.C. 103

MPEP § 2142 states that, “the examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness.” Namely, conclusion of obviousness must be based in fact. “In view of all factual information, the examiner must then make a determination

whether the claimed invention 'as a whole' would have been obvious at that time to that person." *Id.* "The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit....The Federal Circuit has stated that 'rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.' " *Id.*

Claims 1-15

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,296,091 ("Dutta") in view of US Publication No. 2004/0249768 ("Kontio"). Claims 7 and 10 are canceled by this reply, thus this rejection is now moot with respect to the canceled claims. To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As discussed during the Examiner Interview on 5/19/09, the claimed invention relates to sending access rights messages (EMMs, ECMs, CMMs, etc.) over a mobile phone network to a subscriber's receiver/decoder. This is a unique method for transmitting access rights messages, which are related to the data sent via the broadcast multimedia network, because the broadcast multimedia network (*i.e.*, the network which sends the scrambled television programs to the subscriber's receiver/decoder) is essentially bypassed by using a point-to-point communication network that is distinct from the broadcast multimedia network. *See* publication of present application, paragraphs [0064] - [0067] and Figures 6-7.

Turning to the rejection, Dutta fails to show or suggest two distinct networks as required by the claimed invention. Dutta teaches a communications network (20 in FIG. 3). Even

assuming *arguendo* that the communications network of Dutta is equated with the point-to-point communications system (*i.e.*, the mobile phone network) of the claimed invention, none of the other components shown in FIG. 3, as cited by the Examiner, teaches a broadcast multimedia network. Instead, Dutta teaches a television station client (10), a television antenna server (30), and an Internet multimedia client (IMC) (50). None of the aforementioned components can be equated with a digital broadcast multimedia network. Further, Dutta fails to teach that the communications network (element 20 of Dutta) is a mobile phone network, as required by the amended claims.

In addition, Dutta fails to show or suggest a message administration service configured to send the message to the mobile phone network. More particularly, it appears from the Examiner's rejection that the Examiner is equating the antenna server of Dutta as being equivalent to the message administration service. However, the antenna server in Dutta does not send an access rights message to a mobile phone network. In fact, Dutta is completely silent with respect to the antenna server sending any type of message destined for a subscriber's receiver/decoder to a point on a mobile phone network.

From the above, it logically follows that Dutta cannot possibly show or suggest transferring an access rights message that is determined for a particular receiver/decoder connected to a broadcast multimedia network from a message administration service to a mobile phone network, as required by the amended independent claims.

Moreover, Kontio fails to disclose or otherwise provide that which Dutta lacks. Kontio relates to digital rights management in a mobile communications environment. Although Kontio discloses a mobile phone network, Kontio does not disclose that the mobile phone network is used to send messages destined for a receiver/decoder that is connected to a broadcast

multimedia network, as required by the claims. Said another way, Kontio is focused on managing rights to content sent/received over a mobile communications network. However, there is no suggestion or motivation in Kontio to use the mobile communications network to bypass a digital broadcast multimedia network to send a message comprising access rights related to the data that is provided by the broadcast multimedia network. Thus, one skilled in the art would not look to the combination of Dutta with Kontio does not achieve the claimed invention, which is to use a mobile phone network to send a portion of data (*i.e.*, the access rights message) associated with the broadcast programs send over a broadcast multimedia network, where the portion of data is conventionally sent over the broadcast multimedia network itself. Further, Kontio fails to show or suggest a message authorization service configured to send an access rights message to a mobile phone network.

Thus, it is clear that Kontio also fails to show or suggest the limitation requiring “transferring a determined message for a determined receiver or decoder from the message administration service to a point-to-point communication system.”

In addition, the Examiner relies on Kontio as disclosing that the determined message comprises access rights. *See* Office Action mailed February 19, 2009, page 3. Applicant respectfully disagrees. The messages taught by Kontio include usage rights for content, which are *not* access rights. Although Kontio mentions controlling access to digital assets by mobile, wireless devices using a digital voucher (*see* Kontio, Abstract), a complete reading of Kontio reveals that both the primary voucher and the secondary voucher disclosed are used *after content is received*, and do not come into play in the system of Kontio to make the initial determination as to whether the content can be received by an entity in the first place. *See* Kontio, paragraphs [0038], which describes that the primary voucher allows rendering of the content, but prevents

duplication of the content, and [0095]-[0096], which describes “usage rights.” Thus, no where in Kontio is it contemplated to use the digital vouchers as *preventing access* entirely to the digital programs sent via a broadcast multimedia network. This is in contrast to the claimed invention, in which the content is scrambled content, and without access rights, which include the control words used to descramble the scrambled content, access to the programs is not permitted. By the Examiner’s admittance, Dutta also fails to show or suggest that the determining message comprises access rights. *See* Office Action mailed February 19, 2009, page 3. Thus, it is clear that the aforementioned limitation is also not taught by the combination of the references cited by the Examiner.

In view of the above, the Examiner’s contentions fail to support an obviousness rejection of amended independent claims 1, 9, and 11. Pending dependent claims are patentable for at least the same reasons.

Further, Applicants assert that claim 9 is separately patentable over Dutta and Kontio. Dutta and Kontio fail to show or suggest that the receiver/decoder retrieves the message stored in a buffer associated with the mobile phone network when the mobile phone communication network comprises network capacity to transfer the message. That is, when bandwidth is available, *i.e.*, when traditional services of the mobile phone network are low, the message containing access rights for the receiver/decoder can be retrieved from the mobile phone network. This is not contemplated in either Dutta or Kontio.

Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number [17250/008001]).

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Respectfully submitted,

By 

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